

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LARON N. CUNNINGHAM, :
Plaintiff, : Case No. 3:13cv00213
vs. : District Judge Thomas M. Rose
B. D. PIERCE, *et al.*, : Chief Magistrate Judge Sharon L. Ovington
Defendants. :
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REPORT AND RECOMMENDATIONS¹

On June 27, 2013, *pro se* Plaintiff Laron Cunningham filed a handwritten Complaint and “Motion to waive filing fees.” In his motion, Plaintiff informed the Court that he is “currently incarcerated . . . cannot pay the filing fee and cost,” and requested the Court “waive all fees and cost concerning the above stated lawsuit.” (Doc. #1). Thus, Plaintiff, a prisoner, has filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a) in connection with a civil suit. (Doc. #1).

In accordance with section 804(a)(3) of the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321, amending 28 U.S.C. § 1915, Plaintiff must pay an initial partial filing fee of 20 percent of the greater of the average monthly deposits to his prison account or the average monthly balance in his account for the six-month period immediately preceding the filing of the complaint. After payment of the initial partial filing

¹ Attached hereto is NOTICE to the parties regarding objections to this Report and Recommendations.

fee, Plaintiff is further required to make monthly payments of 20 percent of the preceding month's income credited to his prison account until he pays the full amount of the filing fee. Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321, 804(a)(3).

On June 28, 2013, Plaintiff was mailed a copy of the forms that must be completed in order for this Court to evaluate his motion to proceed *in forma pauperis*. To date, Plaintiff has not returned the completed paperwork. Absent these documents, the Court is unable to evaluate his request for *in forma pauperis* status.

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's Motion for Leave to Proceed *in forma pauperis* (Doc. #1) be denied; and,
2. This case be terminated on the docket of this Court.

August 12, 2013

s/ Sharon L. Ovington
Sharon L. Ovington
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen (14) days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen (17) days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen (14) days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See, United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).